IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO (Ord) No. 172 of 2001

Date of decision 2.3.2007

Prabhi Devi and others ….Appellants.

Versus

Municipal Corporation, Shimla and others …Respondents.

Coram

The Hon'ble Mr. Justice : Surjit Singh, Judge.

Whether approved for reporting?

For the appellants: Mr. Ajay Kumar, Advocate.

For respondents :Mr. K.L. Bali, Advocate, for respondent No. 1
Mr. Bhupender Gupta, Sr. Advocate, with
Mr. Janesh Gupta, Advocate, for
respondents No. 2 and 3.

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. There was some litigation between the parties, which was compromised and in terms of the compromise, respondent No. 2 had undertaken to remove debris from certain site. The appellants filed an application, under Order 39 Rule 2-A of the Code of Civil

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Whether reporters of Local Papers may be allowed to see the Judgment?

procedure alleging that the undertaking given by respondent No. 2 had not been complied with and that he had piled up the debris on a passage forming part of Khasra No. 543.

3. As has been noticed hereinabove, what respondent No. 2 had undertaken was that he would remove the debris. It is not the allegation in the application, under Order 39 Rule 2-A of the Code of Civil procedure that the debris had not been removed. The allegation is that the debris has been piled up on a passage forming part of Khasra No. 543. In view of the above stated position, no fault can be found with the impugned order of Additional District Judge dismissing the application with the reasoning that there is no allegation or evidence that the undertaking has not been complied with. Consequently the appeal is dismissed.

March 2, 2007 (BC) **(Surjit Singh), J.**